IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4571 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VARDHMAN CO OP BANK LTD RESUME - Petitioner(s)
Versus
THE AHMEDABAD MAHILA NAGRIK SAHAKARI BANK LTD & 3 - Respondent(s)

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Appearance :

MS LILU K BHAYA for Petitioner(s) : 1,
MR BS PATEL for Respondent(s) : 1,
DELETED for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 08/12/2006

ORAL JUDGMENT

1. In this petition, the petitioner- a cooperative bank had approached this Court making grievances

about the functioning of respondent no.1 also a cooperative bank. The thrust of the averments and corresponding reliefs were directed against respondent no.2 i.e. R.B.I. and respondent no.3 i.e. the Registrar of Cooperative Society, Gujarat State. Following prayers were made in the petition :

“36. On the above grounds and those that may be urged at the time of hearing of this petition,the petitioner humbly prays that, this Hon'ble High Court may be graciously pleased :

(A) To direct respondent no.2 Reserve Bank of India to produce all the relevant documents and records relating to the inquiry or investigation which it had made as required by Section 22 of the Regulation Act before granting licence to respondent no.1 to commence and carry on banking business.

(B) To direct the respondent no.2 Reserve Bank to suspend and/or cancel the licence of respondent no.1 to carry on banking business.

(C) To direct the respondent no.2 to produce all the documents and records relating o the inquiry and investigation made by it as a result of which it came to the conclusion that financial irregularities were committed by respondent no.1.

(D) To direct the respondent no.2 to produce all the relevant documents and records relating to the periodical inspection of respondent no.1 made by its officers.

(E) To direct the respondent no.2 to produce relevant documents and records to show that it had properly scrutinized the accounts and financial statements of respondent no.1 and the steps taken by it to ensure that the affairs of respondent no.1 were properly conducted.

(F) To direct the respondent no.2 to produce all the relevant documents and records relating to the action taken by it for regularizing the financial affairs of respondent no.1 after it issued directions. (Annex-C)

(G) To direct the respondent no.2 to disclose and explain all the steps it had taken to ensure repayment of the deposit of the petitioner and other depositors.

(H) To direct respondent no.2 to discharge its duties and functions under the Regulation Act and to take appropriate action as required under the relevant provisions of the said Act.

(I) To direct the respondent no.2 to issue appropriate directions to respondent no.1 to recover loans and advances made by it so as to ensure repayment of deposit to the petitioner and other depositors.

(J) To direct the respondent no.2 to issue appropriate directions to respondent no.1 to forthwith recover loans and advances made to the relatives and friends of Managing Director and Directors of respondent no.1.

(K) To give directions to respondent no.2, in terms of prayers (I) & (J) above, by way of interim relief, pending hearing and final disposal of this petition.

(L) To direct the respondent no.3 to produce relevant documents and records relating to inquiry and inspection if any made by him under Section 86 and 87 of the Societies Act.

(M) To direct the respondent no.3 to produce relevant documents and records in regard to action, if any taken by him under Section 93 of the Societies Act.

(N) To direct respondent no.1 to make payment of the interest amount and the amount of

the fixed deposit of Rs. 127.50 lacs due to the petitioner forthwith with interest @ 18% p.a. thereon till the date of payment.

(O) To direct the respondent no.3 to discharge his duties and take appropriate action as required by relevant provisions of the Societies Act.

(P) To direct, as an interim relief the respondent nos. 2 & 3 to take necessary steps to appoint Receiver or Administrator for collecting the amounts due to the respondent no.1 from its loanees.

(Q) To direct the respondent no.2 reserve bank to produce all the records regarding the steps taken by it after issuing directions under Sec.35(a) by letter dated 26.10.1996.

(R) To direct the Central Bureau of Investigation to make a thorough and impartial investigation in the matter and bring the guilty persons to book.

(S) To award the cost of this petition.

(T) To grant such other and further relief as may be deemed fit by this Hon'ble Court in the interest of justice."

2. It appears that before this Court, it was stated on behalf of the petitioner on 20th December, 1999 that the petition is not being pressed against respondents nos. 2 and 3. In that view of the matter on 22nd March, 2000, this Court passed the following order :

"1. The matter is placed on Board on the note filed by the counsel for the Reserve Bank of India, the respondent No. 2 stating that the petitioner has made a statement before this court on 20th December, 1999 that he does not want to press this petition against the respondents No.2 and 3.

> 2. Though this order has been passed but necessary correction in the cause title has not been made. Further court has not very specifically ordered for deleting the names of respondents NO.2 and 3 from the title of the special civil application. The court has also not passed the order that against these two respondents, the writ petition is dismissed as withdrawn. On 13th March, 2000, this court passed the order in presence of the counsel for the respondents NO.2 and 3. On that day also, neither the counsel for the respondents NO.2 and 3 nor the counsel for the petitioner has pointed out to the court that on 20th December, 1999, the petitioner has already withdrawn the writ petition against the respondents NO. 2 and 3. Be that as it may.
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> 3.. The order dated 13th March, 2000 has to be modified and accordingly it is modified. Rule has to be read only against the respondent No.1. It is further ordered that the writ petition is dismissed against the respondents NO. 2 and 3 however subject to liberty as granted by this court earlier."

3. In view of the above developments, respondents no. 2 and 3 were deleted from the cause title of the petition and all prayers made against them were ordered to be dropped. It can thus be seen that majority of the prayers made in the petition came to be deleted and opponents no. 2 and 3 came to be dropped from the litigation.

4. Learned advocate Ms. Bhaya for the petitioner stated that she does not have instructions as to the present position and the stand of the petitioner vis-a-vis sole surviving respondent no.1 and the prayers made against the said respondent.

5. On the other hand, learned advocate Mr. Patel for respondent no.1 stated that subsequently respondent no.1 was ordered to be liquidated by

RBI and to the extent possible, the depositors have been paid over the dues.

6. In view of these developments, I see no purpose in surviving this petition. If any grievance still survives, it will be open for the petitioner to approach RBI or District Registrar with an appropriate representation or to proceed with any other legal proceedings available under the law.

7. Subject to the above observations, petition is rejected. Rule is discharged. No order as to costs.

(Akil Kureshi, J.)

(raghu)